FILE COPY

(6)

NO. 72-578

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

In Re:

BRUCE W. BUBLICK, a Witness Before The July, 1972 Grand Jury

Petitioner.

vs.

UNITED STATES OF AMERICA,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MOTION OF THE CHICAGO BAR ASSOCIATION AND THE ILLINOIS STATE BAR ASSOCIATION TO FILE BRIEF AMICUS CURIAE AND BRIEF

PHILIP H. CORBOY
33 North Dearborn Street
Chicago, Illinois 60602
Attorney for Amicus Curiae
The Chicago Bar Association

LYLE W. ALLEN
300 Central Building
Peoria, Illinois
Attorney for Amicus Curiae
Illinois State Bar Association

Of Counsel:
JOHN CADWALADER MEEK,
General Counsel
The Chicago Bar Association
29 South La Salle Street
Chicago, Illinois 60603
312-372-2151

Supreme Court, U.S.
FILED
DEC 11 1972
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-578

In Re:

BRUCE W. BUBLICK, a Witness Before The July, 1972 Grand Jury

Petitioner.

vs.

UNITED STATES OF AMERICA,

Respondent.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE

The Chicago Bar Association and the Illinois State Bar Association hereby respectfully moves for leave to file the following statement as a brief *amicus curiae*. Counsel for Petitioner have consented to the filing of this brief and counsel for respondent has likewise consented.

THE INTEREST OF AMICUS CURIAE

The movant Bar Associations are voluntary associations with a total membership of approximately 25,000 lawyers, and a number of the members of the two Associations have incorporated under the provisions of the Illinois Professional Service Corporation Act. The important question presented by this case is whether a lawyer who has incorporated under said Act has thereby impaired his privileges under the Fifth Amendment.

While declining to take a specific position on the merits of the instant case, the movant Associations support petitioner's contention that the controversy presents an important question of first impression highly deserving of consideration by this Court.

In Illinois, as in many other states, the entity known as the professional service corporation has become increasingly popular among professional men and women as a means of conducting their business affairs. However, since the concept is a relatively new one the law regarding the rights and responsibilities of such corporations and their incorporators, in contrast with the law pertaining to more conventional corporate organizations, is in many instances unsettled.

The issue presented by the instant Petition is whether or not a sole practitioner of law, incorporated under the terms of the Illinois Professional Service Corporation Act (Ill. Rev. Stat. 197, Ch. 32, sec. 415 et seq.), limits his Fifth Amendment privilege against self-incrimination by virtue of such incorporation. Obviously, the resolution of this issue is of vital importance to those lawyers and other professionals who have chosen to carry on their professional practice within the legal framework of a professional service corporation. While it has long been held that conventional business corporations, whose operations are essentially conducted by a number of people, have no constitutional right as a corporate entity to invoke the Fifth Amendment privilege of silence (*Hale* v. *Henkle*, 201 U.S. 43, 70 (1906); *Grant* v. *U.S.*, 2227 U.S. 74, 76 (1913), the limitations in scope and the inherent personal aspects of a professional service corporation would seem to justify the application of a different rule in the latter instance. If different standards exist for unincorporated professions vis-a-vis those who are incorporated concerning the right to invoke the Fifth Amendment privilege, the tax benefits to be gained through professional incorporation would seem to be sig-

stantially offset by the obvious dimunition of constitutional rights. The Court's answer to this question would appear to significantly affect the future of professional service corporations, not only in Illinois but in other states with comparable statutory provisions.

The Associations are in agreement with petitioner's position on the question of mootness in the instant case, since it does appear that a continuing controversy does indeed exist, and further litigation in the Courts below involving essentially a procedural problem would not seem to be prerequisite to invoking this Court's jurisdiction at this time.

For the foregoing reasons, it is respectfully suggested that the Petition for Writ of Certiorari be granted so that the Court may review and decide this question of wide concern to many lawyers and other professionals who now, or in the future, elect to practice as a professional service corporation.

Respectfully submitted,

PHILIP H. CORBOY, President
The Chicago Bar Association
Chicago, Illinois

LYLE W. ALLEN, President
Illinois State Bar Association
Springfield, Illinois

Of Counsel:
JOHN CADWALADER MENK,
General Counsel
The Chicago Bar Association
29 South La Salle Street
Chicago, Illinois 60603